

Executive Summary – Enforcement Matter – Case No. 42911

City of Domino

RN101388866

Docket No. 2011-2047-MLM-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MLM – WR and PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Domino, on Farm-to-Market ("FM") Road 3129, four-tenths of a mile east of Highway 59 North, Domino, Cass County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: May 11, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,642

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,321

Total Due to General Revenue: \$1,321

Payment Plan: 1 payment of \$1,321

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 42911

City of Domino

RN101388866

Docket No. 2011-2047-MLM-E

Investigation Information

Complaint Date(s): September 9, 2011

Complaint Information: Alleged that there were issues with the quality of the drinking water being provided.

Date(s) of Investigation: January 18, 2011 and September 13, 2011

Date(s) of NOE(s): October 21, 2011

Violation Information

1. Failed to provide Facility records to Commission personnel at the time of the investigations [30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(v) and (f)(3)(A)(vi)].
2. Failed to conduct an annual inspection of the Facility's elevated storage tank [30 TEX. ADMIN. CODE § 290.46(m)(1)(A)].
3. Failed to maintain an up-to-date chemical and microbiological monitoring plan [30 TEX. ADMIN. CODE § 290.121(a) and (b)].
4. Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system [30 TEX. ADMIN. CODE § 290.109(c)(1)(A)].
5. Failed to monitor the disinfectant residual at various locations throughout the distribution system [30 TEX. ADMIN. CODE § 290.110(c)(4)].
6. Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e) [30 TEX. ADMIN. CODE § 290.46(q)(1)].
7. Failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license [30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a)].
8. Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier [30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

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City of Domino

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Docket No. 2011-2047-MLM-E

Technical Requirements:

The Order will require Respondent to:

a. Within 10 days:

i. Begin collecting routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system; and

ii. Begin monitoring the disinfectant residual at various locations throughout the distribution system.

b. Within 30 days:

i. Ensure that the Facility is operated under the direct supervision of a water works operator who holds a minimum of a Class “D” or higher license; and

ii. Develop and begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility in the event of low distribution system pressure below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that the water supply may be compromised.

c. Within 45 days, submit written certification demonstrate compliance with Ordering Provisions a. and b.

d. Within 60 days:

i. Begin maintaining at the Facility a complete record of water works operations and maintenance activities, including but not limited to: the amount of chemicals used each week; the volume of water treated each week; the date, location, and nature of water quality, pressure or outage complaints received by the system and results of any subsequent complaint investigation; the dates dead-end mains were flushed; the dates that storage tanks and other facilities were cleaned; and the maintenance records for the Facility and its equipment;

i. Compile a complete and up-to-date chemical and microbiological monitoring plan;

ii. Adopt and keep on file a drought contingency plan; and

iii. Conduct an inspection of the Facility’s elevated storage tank.

e. Within 75 days, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 42911

City of Domino

RN101388866

Docket No. 2011-2047-MLM-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Stephen Thompson, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2558; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Lonzo Lincoln, Councilman, City of Domino, 14555 FM 3129, Queens
City, Texas 75572

The Honorable Jean Oliver, Mayor, City of Domino, 14555 FM 3129, Queens City, Texas
75572

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Oct-2011	Screening	3-Nov-2011	EPA Due	
	PCW	28-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Domino		
Reg. Ent. Ref. No.	RN101388866		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42911	No. of Violations	6
Docket No.	2011-2047-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Rights	Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$950

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **51.0%** Enhancement **Subtotals 2, 3, & 7** \$484

Notes Enhancement for three NOVs with same/similar violations, eight NOVs with dissimilar violations, and one order containing a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$1,240
Approx. Cost of Compliance \$1,675
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,434

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$1,434

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,434

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$1,434

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 51%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violations, eight NOVs with dissimilar violations, and one order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 51%

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(v) and (f)(3)(A)(vi)

Violation Description

Failed to provide Facility records to Commission personnel at the time of the investigation. Specifically, at the time of the investigations conducted on January 18, 2011 and September 13, 2011, the following records were not available for review: amount of chemicals used each week; volume of water treated each week; date, location, and nature of water quality, pressure or outage complaints received by the system and results of any subsequent complaint investigation; dates dead-end mains were flushed; dates that storage tanks and other facilities were cleaned; and the maintenance records for the Facility and its equipment.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
			X		5%

Matrix Notes

Between 30 and 70% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1 51 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$20

Violation Final Penalty Total \$76

This violation Final Assessed Penalty (adjusted for limits) \$76

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$270	18-Jan-2011	1-Jul-2012	1.45	\$20	n/a	\$20
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a record keeping system for the operating records, calculated from the date that the violation was initially documented to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$270

TOTAL

\$20

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.46(m)(1)(A)

Violation Description

Failed to conduct an annual inspection of the Facility's elevated storage tank. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the elevated storage tank had not been inspected in the previous year.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to perform an inspection of the elevated storage tank could expose customers to significant amounts of contaminants that would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

365 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$100

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,096

Violation Final Penalty Total \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$1,000	13-Sep-2010	13-Sep-2011	1.92	\$96	\$1,000	\$1,096
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to conduct the annual elevated storage tank inspection, calculated for the one year prior to the date of the investigation.

Approx. Cost of Compliance

\$1,000

TOTAL

\$1,096

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.121(a) and (b)

Violation Description

Failed to maintain an up-to-date chemical and microbiological monitoring plan. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the Facility only had a site sampling list in lieu of a complete chemical and microbiological monitoring plan.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

Greater than 70% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

51 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$18

Violation Final Penalty Total \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$180	18-Jan-2011	1-Jul-2012	1.45	\$1	\$17	\$18
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to compile a chemical and microbiological monitoring plan, calculated from the date that the violation was originally documented to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$180

TOTAL

\$18

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(1)(A)

Violation Description

Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the entry point adjacent to the elevated storage tank was the only location used for sampling.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to collect routine distribution coliform samples at locations that are representative of water quality throughout the distribution system may lead to bacteria being undetected exposing customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

51 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the investigation, September 13, 2011, to the date of screening, November 3, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	18-Jan-2011	1-Jul-2012	1.45	\$0	\$4	\$5
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to implement an adequate sampling program to ensure that samples are collected at representative locations, calculated from the date that the violation was originally documented to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$45

TOTAL \$5

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.110(c)(4)

Violation Description

Failed to monitor the disinfectant residual at various locations throughout the distribution system. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the entry point adjacent to the elevated storage tank was the only location used to monitor the disinfectant residual.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential		X	

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to monitor the disinfectant residual at locations that are representative of water quality throughout the distribution system may lead to inadequate treatment of the water and could expose customers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

51 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the investigation, September 13, 2011, to the estimated date of compliance.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5

Violation Final Penalty Total \$151

This violation Final Assessed Penalty (adjusted for limits) \$151

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Req. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	18-Jan-2011	1-Jul-2012	1.45	\$0	\$4	\$5
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the amount necessary to implement an adequate disinfectant monitoring program to ensure that the disinfectant residual is monitored at representative locations, calculated from the date that the violation was originally documented to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$45

TOTAL

\$5

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 290.46(q)(1)

Violation Description

Failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 Tex. Admin. Code § 290.47(e). Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that at least two water outages occurred during the month of August 2011 and that the Respondent did not issue boil water notices within 24 hours of the water outages.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to issue a boil water notice may not allow consumers to take appropriate measures to prevent exposure to significant amount of contaminants that would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

Two single events are recommended (one event per water outage).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$97

Violation Final Penalty Total \$755

This violation Final Assessed Penalty (adjusted for limits) \$755

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$45	13-Sep-2011	1-Jun-2012	0.72	\$0	\$2	\$2
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to develop and implement a written protocol that is to be followed to ensure boil water notices are issued to customers when appropriate, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$90	1-Aug-2011	31-Aug-2011	1.00	\$5	\$90	\$95
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount necessary to provide boil water notices to the affected customers of the Facility, calculated for the month in which there were at least two documented water outages.

Approx. Cost of Compliance

\$135

TOTAL

\$97



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	24-Oct-2011	Screening	3-Nov-2011	EPA Due	
	PCW	28-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Domino		
Reg. Ent. Ref. No.	RN101388866		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	42911	No. of Violations	1
Docket No.	2011-2047-MLM-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media	Water Rights	Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$300
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	51.0% Enhancement	Subtotals 2, 3, & 7	\$153
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Notes: Enhancement for three NOV's with same/similar violations, eight NOV's with dissimilar violations, and one order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$3,668
Approx. Cost of Compliance \$25,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$453
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$453
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$453
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$453
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Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 3 (September 2011)

Case ID No. 42911

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 51%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for three NOVs with same/similar violations, eight NOVs with dissimilar violations, and one order containing a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 51%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 51%

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 3 (September 2011)

Case ID No. 42911

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101388866

Media [Statute] Public Water Supply

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.46(e)(4)(A) and Tex. Health & Safety Code § 341.033(a)

Violation Description

Failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the Respondent has a licensed operator under contract to collect routine distribution coliform samples, but the operator does not perform any other process control duties.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Failure to ensure that the Facility is operated under the supervision of an adequately licensed operator could lead to the improper treatment of the water and could expose customers of the Facility to a significant amount of contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 2

51 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$300

Two monthly events are recommended, calculated from the date of the investigation, September 13, 2011, to the date of screening, November 3, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,668

Violation Final Penalty Total \$453

This violation Final Assessed Penalty (adjusted for limits) \$453

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Reg. Ent. Reference No. RN101388866
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel	\$25,000	13-Sep-2011	3-Nov-2011	0.14	\$175	\$3,493	\$3,668
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated annual amount to employ an operator that holds a valid class "D" or higher license, calculated from the date of the investigation to the date of screening.

Approx. Cost of Compliance \$25,000

TOTAL \$3,668



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	24-Oct-2011	Screening	3-Nov-2011	EPA Due	
	PCW	21-Nov-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Domino	
Reg. Ent. Ref. No.	RN101388866	
Facility/Site Region	5-Tyler	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	42911	No. of Violations	1
Docket No.	2011-2047-MLM-E	Order Type	Findings
Media Program(s)	Water Rights	Government/Non-Profit	Yes
Multi-Media	Public Water Supply	Enf. Coordinator	Stephen Thompson
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$5,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	51.0% Enhancement	Subtotals 2, 3, & 7	\$255
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Notes: Enhancement for three NOVs with same/similar violations, eight NOVs with dissimilar violations, and one order containing a denial of liability.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$37
Approx. Cost of Compliance \$360
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$755
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$755
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$755
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DEFERRAL	0.0%	Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$755
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Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Water Rights

Enf. Coordinator Stephen Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	8	16%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 51%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violations, eight NOVs with dissimilar violations, and one order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 51%

Screening Date 3-Nov-2011

Docket No. 2011-2047-MLM-E

PCW

Respondent City of Domino

Policy Revision 2 (September 2002)

Case ID No. 42911

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101388866

Media [Statute] Water Rights

Enf. Coordinator Stephen Thompson

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 288.20(a) and 288.30(5)(B)

Violation Description

Failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier. Specifically, at the time of the investigation conducted on September 13, 2011, it was documented that the Respondent had not formally adopted a drought contingency plan.

Base Penalty \$5,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$4,500

\$500

Violation Events

Number of Violation Events 1

51 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$37

Violation Final Penalty Total \$755

This violation Final Assessed Penalty (adjusted for limits) \$755

Economic Benefit Worksheet

Respondent City of Domino
Case ID No. 42911
Req. Ent. Reference No. RN101388866
Media Water Rights
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$360	18-Jan-2011	1-Jul-2012	1.45	\$2	\$35	\$37
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount necessary to draft and adopt a drought contingency plan, calculated from the date that the violation was originally documented to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$360

TOTAL

\$37

Compliance History

Customer/Respondent/Owner-Operator: CN600663769 City of Domino Classification: AVERAGE Rating: 3.01

Regulated Entity: RN101388866 CITY OF DOMINO Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0340041

WATER LICENSING LICENSE 0340041

Location: LOCATED ON FM 3129, .4 MI E OF HWY 59 N,
CASS COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: November 02, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 02, 2006 to November 02, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Stephen Thompson Phone: (512) 239-2558

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 05/11/2007

ADMINORDER 2004-1457-PWS-E

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.122(c)
5A THC Chapter 341, SubChapter A 341.033(d)

Description: Failure to collect and submit routine monthly water samples for Aug thru Dec 02 and Feb thru Aug 03 and failure to provide public notice for Aug thru Dec 02.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(b)(2)
30 TAC Chapter 290, SubChapter F 290.109(g)(3)
30 TAC Chapter 290, SubChapter F 290.122(a)(1)(A)
5A THC Chapter 341, SubChapter A 341.031

Description: Exceeded the MCL for coliform bacteria

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)

Description: Failure to submit additional water samples in Oct 03, May and July 04 after routine samples tested positive for bacteria.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.113
5A THC Chapter 341, SubChapter A 341.0315(c)

Description: Exceeded the MCL for TTHM

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
30 TAC Chapter 290, SubChapter F 290.109(g)(4)
30 TAC Chapter 290, SubChapter F 290.122(c)

Description: Failure to take at least five bacteriological samples in Nov 03, June and August 2004 following a coliform positive sample.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 10/02/2007 (596106)
2 02/08/2008 (652109)
3 02/08/2008 (652110)
4 05/18/2007 (652295)
5 05/18/2007 (652296)
6 08/08/2007 (652568)
7 08/10/2007 (652676)
8 11/15/2007 (653043)
9 11/15/2007 (653044)
10 06/27/2008 (684285)
11 02/09/2011 (894783)
12 03/10/2011 (900770)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/18/2007 (652295) CN600663769
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TOTAL TRIHALOMETHANES

Date: 05/18/2007 (652296) CN600663769
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5

Date: 08/08/2007 (652568) CN600663769
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
Description: HAA5

Date: 08/10/2007 (652676) CN600663769
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
Description: TOTAL TRIHALOMETHANES

Date: 10/08/2007 (596106) CN600663769
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
Description: Failed to maintain Monthly Reports of Water Works Operation each month and kept on file for commission review for at least 2 years.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to maintain a written Plant Operations Manual.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
Description: Failure to provide the overflow pipe on the elevated storage tanks with a gravity-hinged and weighted cover. The cover must seat properly with a gap of not more than 1/16 inch.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
Description: Failure to enclose a potable water storage tanks with an intruder-resistant fence with lockable gates or a locked, ventilated house.
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 290, SubChapter D 290.46(d)(2)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(A)
30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B)
Description: Failure to maintain a free chlorine residual of at least 0.2 mg/L throughout the distribution system.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failed to inspect the elevated storage tank at least annually.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failed to maintain copies of the Monitoring Plan at each water treatment plant and at a central location available for review.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 288, SubChapter B 288.20
 Description: Failed to provide a copy of an adopted drought contingency plan.

Date: 11/15/2007 (653043) CN600663769
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 11/15/2007 (653044) CN600663769
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: HAA5

Date: 02/08/2008 (652109) CN600663769
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 Description: TOTAL TRIHALOMETHANES

Date: 02/08/2008 (652110) CN600663769
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(5)
 Description: HAA5

Date: 07/02/2008 (684285) CN600663769
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failed to maintain copies of the Monitoring Plan at each water treatment plant and at a central location available for review.

Date: 03/11/2011 (900770) CN600663769
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)
 Description: Failed to maintain Monthly Reports of Water Works Operation each month and kept on file for commission review for at least 2 years.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
 Description: Failure to maintain a written Plant Operations Manual.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(3)
 Description: Failure to provide the overflow pipe on the elevated storage tanks with a gravity-hinged and weighted cover. The cover must seat properly with a gap of not more than 1/16 inch.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(e)
 Description: Failure to enclose a potable water storage tanks with an intruder-resistant fence with lockable gates or a locked, ventilated house.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(i)
 Description: Failure to adopt an adequate plumbing ordinance, regulations or a service agreement with provisions for proper enforcement.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(1)
 Description: Failed to inspect the elevated storage tank at least annually.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
 Description: Failed to maintain copies of the Monitoring Plan at each water treatment plant and at a central location available for review.
 Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 288, SubChapter B 288.20
Description: Failed to provide a copy of an adopted drought contingency plan.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)
Description: Failed to monitor for microbial contaminants according to the monitoring plan.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 290, SubChapter F 290.110(c)(4)
Description: Failed to collect and document weekly disinfectant residual tests representative of the distribution system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF DOMINO
RN101388866**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-2047-MLM-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Domino ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 11. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply on Farm-to-Market Road 3129, four-tenths of a mile east of Highway 59 North in Domino, Cass County, Texas (the "Facility") that has approximately 101 service connections and serves at least 25 people per day for at least 60 days per year.

2. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not provide Facility records to Commission personnel at the time of the investigations. Specifically, at the time of the investigations, the following records were not available for review: amount of chemicals used each week; volume of water treated each week; date, location, and nature of water quality, pressure or outage complaints received by the system and results of any subsequent complaint investigation; dates dead-end mains were flushed; dates that storage tanks and other facilities were cleaned; and the maintenance records for the Facility and its equipment.
3. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not conduct an annual inspection of the Facility's elevated storage tank. Specifically, at the time of the investigations, it was documented that the elevated storage tank had not been inspected in the previous year.
4. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not maintain an up-to-date chemical and microbiological monitoring plan. Specifically, at the time of the investigations, it was documented that the Facility only had a site sampling list in lieu of a complete chemical and microbiological monitoring plan.
5. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system. Specifically, at the time of the investigations, it was documented that the entry point adjacent to the the elevated storage tank was the only location used for sampling.
6. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not monitor the disinfectant residual at various locations throughout the distribution system. Specifically, at the time of the investigations, it was documented that the entry point adjacent to the the elevated storage tank was the only location used to monitor the disinfectant residual.
7. During an investigation conducted on September 13, 2011, TCEQ staff documented that the Respondent did not issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e). Specifically, at the time of the investigation, it was documented that at least two water outages occurred during the month of August 2011 and that the Respondent did not issue boil water notices within 24 hours of the water outages.
8. During an investigation conducted on September 13, 2011, TCEQ staff documented that the Respondent did not operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license. Specifically, at the time of the investigation, it was documented that the Respondent has a licensed operator under contract to collect routine distribution coliform samples, but the operator does not perform any other process control duties.
9. During investigations conducted on January 18 and September 13, 2011, TCEQ staff documented that the Respondent did not adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier. Specifically, at

the time of the investigations, it was documented that the Respondent had drafted but not formally adopted a drought contingency plan.

10. The Respondent received notice of the violations on October 24, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 11 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to provide Facility records to Commission personnel at the time of the investigations, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(3)(A)(i)(III), (f)(3)(A)(ii)(III), (f)(3)(A)(iii), (f)(3)(A)(iv), (f)(3)(A)(v) and (f)(3)(A)(vi).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to conduct an annual inspection of the Facility's elevated storage tank, in violation of 30 TEX. ADMIN. CODE § 290.46(m)(1)(A).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to maintain an up-to-date chemical and microbiological monitoring plan, in violation of 30 TEX. ADMIN. CODE § 290.121(a) and (b).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(1)(A).
6. As evidenced by Findings of Fact No. 6, the Respondent failed to monitor the disinfectant residual at various locations throughout the distribution system, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4).
7. As evidenced by Findings of Fact No. 7, the Respondent failed to issue a boil water notification within 24 hours using the prescribed notification format as specified in 30 TEX. ADMIN. CODE § 290.47(e), in violation of 30 TEX. ADMIN. CODE § 290.46(q)(1).
8. As evidenced by Findings of Fact No. 8, the Respondent failed to operate the Facility under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license, in violation of 30 TEX. ADMIN. CODE § 290.46(e)(4)(A) and TEX. HEALTH & SAFETY CODE § 341.033(a).
9. As evidenced by Findings of Fact No. 9, the Respondent failed to adopt a drought contingency plan which includes all elements for municipal use by a retail public water supplier, in violation of 30 TEX. ADMIN. CODE §§ 288.20(a) and 288.30(5)(B).
10. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049 and TEX. WATER CODE § 11.0842, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

11. An administrative penalty in the amount of Two Thousand Six Hundred Forty-Two Dollars (\$2,642) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b) and TEX. WATER CODE § 11.0842(c). The Respondent has paid One Thousand Three Hundred Twenty-One (\$1,321) of the administrative penalty. The remaining amount of One Thousand Three Hundred Twenty-One (\$1,321) of the administrative penalty shall be payable in one monthly payment of One Thousand Three Hundred Twenty-One (\$1,321). The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Six Hundred Forty-Two Dollars (\$2,642) as set forth in Section II, Paragraph 11 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Domino, Docket No. 2011-2047-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 10 days after the effective date of this Agreed Order:
 - i. Begin collecting routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.109; and
 - ii. Begin monitoring the disinfectant residual at various locations throughout the distribution system, in accordance with 30 TEX. ADMIN. CODE § 290.110.
 - b. Within 30 days after the effective date of this Agreed Order:

- i. Ensure that the Facility is operated under the direct supervision of a water works operator who holds a minimum of a Class "D" or higher license, in accordance with 30 TEX. ADMIN. CODE § 290.46; and
 - ii. Develop and begin maintaining a written protocol that is to be followed to ensure that proper notification and boil water notices are provided to the customers of the Facility in the event of low distribution system pressure below 20 pounds per square inch, water outages, positive microbiological samples, low chlorine residuals, or other conditions which indicate that the water supply may be compromised, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.e, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.
- d. Within 60 days after the effective date of this Agreed Order:
- i. Begin maintaining at the Facility a complete record of water works operations and maintenance activities, including but not limited to: the amount of chemicals used each week; the volume of water treated each week; the date, location, and nature of water quality, pressure or outage complaints received by the system and results of any subsequent complaint investigation; the dates dead-end mains were flushed; the dates that storage tanks and other facilities were cleaned; and the maintenance records for the Facility and its equipment, in accordance with 30 TEX. ADMIN. CODE § 290.45;
 - ii. Compile a complete and up-to-date chemical and microbiological monitoring plan, in accordance with 30 TEX. ADMIN. CODE § 290.121;
 - iii. Adopt and keep on file a drought contingency plan, in accordance with 30 TEX. ADMIN. CODE §§ 288.20 and 288.30; and
 - iv. Conduct an inspection of the Facility's elevated storage tank, in accordance with 30 TEX. ADMIN. CODE § 290.46.
- e. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or

authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Domino
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona
For the Executive Director

6/18/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Domino. I am authorized to agree to the attached Agreed Order on behalf of the City of Domino, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Domino waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Lonzo Lincoln
Signature

3-23-12
Date

Lonzo Lincoln
Name (Printed or typed)
Authorized Representative of
City of Domino

COUNCILMAN
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.